

ATTORNEY DOCKET NO.
064731.0339

PATENT APPLICATION
USSN 10/627,548

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Yasuhiko (nmi) Aoki et al.
Serial No.: 10/627,548
Filing Date: July 25, 2003
Group Art Unit: 2613
Confirmation No.: 3535
Examiner: Christina Y. Leung
Title: SYSTEM AND METHOD FOR COMMUNICATING
OPTICAL TRAFFIC BETWEEN RING NETWORKS

Mail Stop Appeal Brief - Patents

Commissioner for Patents

P.O. Box 1450

Alexandria, Virginia 22313-1450

Dear Sir:

REPLY BRIEF

Appellants respectfully submit this Reply Brief under 37 C.F.R. § 41.41 in response to the Examiner's Answer transmitted October 9, 2008. Appellants filed an Appeal Brief explaining clearly and in detail why the final rejections of Claims 1, 3-9, 11, and 13-19 are improper and should be reversed by the Board of Patent Appeals and Interferences. In the Examiner's Answer, the rejections are sustained.

Argument

Appellants respectfully submit this Reply Brief under 37 C.F.R. § 41.41 in response to the Examiner's Answer transmitted October 9, 2008. Appellants filed an Appeal Brief explaining clearly and in detail why the final rejections of Claims 1, 3-9, 11, and 13-19 are improper and should be reversed by the Board of Patent Appeals and Interferences (the "Board"). In the Examiner's Answer, the rejections are sustained. The Examiner rejects Claims 1, 3-5, 7-9, 11, 13-15 and 17-19 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 7,072,580 B2 issued to Arecco et al ("*Arecco*"). The Examiner rejects 6 and 16 under 35 U.S.C. § 103(a) as being unpatentable over *Arecco* in view of U.S. Patent No. 5,612,805 issued to Fevrier et al ("*Fevrier*").

In the Examiner's Answer, the Examiner responds to some of the arguments made by Appellants in the Appeal Brief with respect to the rejections indicated above. See Examiner's Answer, pages 8-10. Appellants reply to the Examiner's responses below.

**Appellants' Reply to Examiner's Responses Regarding the Failure
of *Arecco* to Disclose Each Element of Claims 1, 3-5, 7-9, 11, 13-15, and 17-19**

The Examiner initially responds by still contending that *Arecco* discloses a second RIC node inactive under normal system operation and not operable to communicate optical traffic between the first and second optical ring networks when a first RIC node is able to communicate optical traffic between first and second optical ring networks and states that:

Specifically, Figure 21 of *Arecco et al.* shows normal system operation, wherein nodes E and E' are *not operable* to communicate optical traffic between the rings (column 26, lines 37-67; column 27, lines 1-57). Although *Arecco et al.* disclose that nodes E and E' pass signals from input ports to output ports in the normal system operation as shown in Figure 21, *Arecco et al.* specifically discloses that in the normal operation, traffic is communicated between the rings via nodes D and D', not via nodes E and E'. Figure 21, for example, clearly shows how traffic comprising signals S1 and S2 is communicated between node B of ring network 1 and node C' of ring network 2 through nodes D and D' only, not through node E and E'. The signals passed through nodes E and E' from nodes D and D' are also *prevented from entering the rings* by nodes D and D' and therefore nodes E and E' are not used to

communicate optical traffic between the rings in normal operation.

Examiner's Answer, pages 8-9 (emphasis in original). However, despite the Examiner's contentions, it is clear from Figure 21 that nodes E and E' are also used (in addition to nodes D and D') to communicate traffic between the networks. There is nothing to suggest that signals passing through nodes E and E' are prevented by nodes D and D' from being communicated *between the ring networks* as the Examiner suggest – to the contrary, Figure 21 of *Arecco* clearly shows both sets of nodes D/D' and E/E' communicating traffic between the ring networks. See *Arecco*, Figure 21. Moreover, *when discussing Figure 21*, *Arecco* specifically discloses that in normal system operation nodes D and D' and nodes E and E' communicate traffic between the rings – "[u]nder normal operative conditions, signal S1 is inserted into the first ring network (Network 1) by node B, passes through node C and is received by node D, where it is split into a first and a second fraction (50% of power) *which are sent towards nodes E and D'*." *Arecco*, col. 26, lines 61-66 (emphasis added). This is also clearly indicated at column 27, lines 4-50 of *Arecco*:

In more detail, signal routing within the different nodes *during normal operative conditions* are the following:

...

Node E

Signal S₁ is received via the first receiving transponder RxT₁ (λ_x) and it is dropped at the second output OUT₂.

...

Node E'

Signal S₁ is received via the first input IN₁ and transmitted via the first transmitting transponder TxT₁ (λ_x).

Arecco, col. 27, lines 4-50 (emphasis added). There is no disclosure that *under normal system operation* a second RIC node (contended by the Office Action to be nodes E and E') is *inactive and not operable to* communicate optical traffic *between the first and second optical ring networks* when the first RIC node is able to communicate optical traffic between the first and second optical ring networks. There is no disclosure in *Arecco* that nodes E and E' are inactive under normal system operation. To the contrary, it is clear that *each of nodes*

D, D', E, and E' are active under normal system operation *and operable* to communicate optical traffic *between the first and second ring networks*.

For at least these reasons, Appellants respectfully submit that Claims 1 and 11 are patentable over the cited art used in the rejections and request that the Board overturn the rejections of these claims.

Claims 3-9 each depends from Claim 1, and Claims 13-19 each depends from Claim 11. Thus, for at least the reasons discussed above with respect to Claims 1 and 11, Appellants respectfully request that the Board overturn the rejections of Claims 3-9 and 13-19

Conclusion

Appellants have demonstrated, through their Appeal Brief and this Reply Brief, that the present invention, as claimed, is clearly distinguishable over the prior art cited by the Examiner. Therefore, Appellants respectfully request the Board of Patent Appeals and Interferences to reverse the Examiner's final rejection of the pending claims and instruct the Examiner to issue a notice of allowance of all pending claims.

Appellants believe no fees are due in the filing of this Reply Brief. However, the Commissioner is hereby authorized to charge any fee and credit any overpayment to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,
BAKER BOTTS L.L.P.
Attorneys for Appellants



Chad C. Walters
Reg. No. 48,022

Date: November 26, 2008

CORRESPONDENCE ADDRESS:

Customer No.:

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